

REMARKS/ARGUMENTS

Prior to entry of this Response, the application included claims 1-41. Claims 1-41 were rejected in the final Office Action mailed November 12, 2008. No claims have been amended, canceled, or added. Hence, after entry of this Response, claims 1-41 stand pending for examination.

Claims 15-28 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 1, 7-15, 18, 19, 21-34, and 38-41 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0032687 to Huff ("Huff").

Claims 2 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huff in view of U.S. Patent No. 4,501,559 to Griswold et al. ("Griswold").

Claims 3-6, 17, 20, 35, and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huff in view of U.S. Patent No. 6,389,429 to Kane et al. ("Kane").

Rejections Under 35 U.S.C. § 112

The Applicants respectfully traverse and request reconsideration of the 35 U.S.C. § 112 rejection of claim 15. The final Office Action appears to reason that the recitation of a "host computer system, comprising" sufficiently modifies the two subsequent claim elements to thereby invoke the third prong of the analysis described at MPEP § 2181. The Applicants disagree.

At the outset it seems efficient to note that the Record appears to accept that the first and second prongs of the analysis are satisfied by the structure of the claims as drafted. It therefore remains only to resolve the question of the third prong to move this matter along, at

least as far as this rejection is concerned. The third prong queries whether the claim element itself includes sufficient structure to accomplish the function analyzed in the second prong.

To resolve the matter, the Applicants suggest that the proper analysis would address the “means for receiving genealogy data from at least one primary source” and the “means for sending information to a user computer” as two distinct elements, neither of which include the nested preamble “a host computer system, comprising.” In other words, it is improper, as the Office Action seems to argue, to conclude that the nested preamble “a host computer system” *modifies* the two elements. Instead, the two elements are sub-elements of the host computer system, and a proper analysis would proceed as if the host computer system includes the two “means for” elements, each performing the claimed function, which may include the full range of possibilities allowed by 35 U.S.C. § 112, ¶ 6.

The Applicants note the opening paragraph of MPEP § 2181, calling particular attention to the admonition that the guidelines on this point do not have the force of law.

Rejections Under 35 U.S.C. § 102

The Applicants respectfully traverse and request reconsideration of the rejections of all claims rejected under 35 U.S.C. § 102. Huff is cited for anticipating the claims but does not teach each and every claim element, either expressly or impliedly, as required for a proper rejection under 35 U.S.C. § 102. Specifically, Huff does not teach “identifying pairs of records having similar data; [and] for each identified pair of individual node records, comparing related individual node records and deciding based on predetermined criteria whether the identified pair of individual node records represent the same person.” In other words, node records that are *related to* pairs of records having similar data are compared. *Predetermined criteria* is then used to determine whether the original records represent the same person. Huff does not teach comparing related node records and using predetermined criteria to assess pairs of records having similar data. Hence, claim 1 is believed to be allowable, at least for this reason. Claim 15 includes a similar element and is believed to be allowable, at least for the foregoing reason.

Regarding the claim elements quoted above, the Office Action cites Huff,
¶¶[0123] and [0164]. Both of which are reproduced below:

[0123] Overcoming Duplication and Loss. Up to now the genealogy procedures the world has used comprise paper systems or relatively small accumulations of names in linked electronic form on a home PC. Online internet sources are mostly limited to copies of the PC format data or large lists of raw data such as births, deaths, and the like. Nobody has attempted the online accumulation and comparison of data from multiple sources with the goal of accurate linking, and to allow for multiple data interpretations so that a solution or compromise could finally be reached without loss of any contributed data.

[0164] The computer support that can be given to this splicing/hiding process is as follows. The delete transaction contains the number of the name to be deleted, the number of the replacement name, and the user number of the person submitting the transaction. To make sure that the deleting person has done his homework (and keeps it current in the future), the delete record will have an indicator that must be set on to put and keep the transaction in effect. Before the record is stored in the database and the indicator is set on, the computer first counts the connections of the old name to be deleted. It then counts the connections of the name to replace it. The new name must have at least as many links backward (plus spouse and children--sideways and forward) as does the old name. This check is not conclusive, but it ensures that the person making the deletion has done his homework. To limit search time, the search on the new name need only go back far enough to show that it is equal to or greater than the old name. Otherwise no switch is set on, and the apparent duplication continues to appear.

The quoted elements appear nowhere in these citations. The Office Action makes a number of unsupportable assertions about these teachings to arrive at the rejection. First, the Office Action (p. 12) states that "Huff teaches comparing records to determine whether they represent the same person." There is no such teaching. Next, the Office Action improperly summarizes this as "understood to be identifying records having similar data." This, however, is an unwarranted summarization of an absent teaching. Moreover, the Office Action takes the unjustifiable position that "the names and numbers of such spousal and child links are 'predetermined criteria', due to the fact that they are previously entered; further, that the method of performing such subsequent analysis is itself 'predetermined criteria'." In other words, the reasoning

articulated in the Office Action to reach the rejection imports teaching that is not present, assigns an unwarranted interpretation to the imported teaching, then tortures the result to fit “predetermined criteria” in a manner that essentially strips the words from the claim.

Accordingly, the Applicants respectfully request reconsideration of the rejections of claims 1 and 15 for the foregoing reasons.

The Applicants maintain that claims 29 and 39 are allowable because Huff does not teach “perform[ing] a relationship analysis to infer relationships among persona records using the assertions of the persona records; if a relationship is inferred, assign at least one relationship type to the relationship between the records.” In responding to this argument from the Applicant’s prior response, then pending Office Action (p. 12) reasons that “Huff’s checking is understood to be inferring a relationship between two records, that is, determining if they represent the same person.” The Applicants maintain that this is an unsupportable summarization of Huff’s “checking.” Further, that Huff assigns an “equality” relationship type to the relationship is crediting Huff with teaching something that Huff simply does not teach. Accordingly, claims 29 and 39 are believed to be allowable, at least for the foregoing reasons.

The remaining claims depend from one of the independent claims discussed above and are believed to be allowable, at least for the reasons stated above.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

Appl. No. 10/748,441

PATENT

Response dated January 8, 2009

Request for Reconsideration under 37 CFR 1.116 Expedited

Procedure -- Examining Group 3714

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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